

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3203 OF 2022

Jyotsna Suraj Kachway	...Petitioner
Versus	
The State of Maharashtra	...Respondent

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Mr. Priyal G. Sarda, Advocate for the Petitioner.

Mr. S.R. Agarkar, APP for the Respondent – State.

CORAM	:	PRAKASH D. NAIK, J.
Date	:	28th SEPTEMBER, 2022.

PER COURT:

1. The petitioner challenges order dated 1st April, 2022 passed by Learned J.M.F.C., Khandala in R.C.C. No.50 of 2022 rejecting application for return of vehicle and order dated 10th May, 2022 passed by learned Additional Sessions Judge, Satara in Criminal Revision Application No.24 of 2022.

2. The petitioner was arrested in connection with C.R. No.298 of 2021 registered with Lonand Police Station, District Satara for offences punishable under Section 379 r/w 34 of Indian Penal Code (for short 'IPC'). The First Information Report (for short 'FIR') was registered on 15th September, 2021. The case of the prosecution is that on 13th September, 2021, the complainant who is the owner of Jewellery Shop, checked the stock of jewellery in the shop and found that some articles were missing. The shop was opened on 9th September, 2021. The complainant made inquiry with the visitors

in the shop. However, could not get the clue about missing articles. The complainant then watched the C.C.T.V. footage and noticed that one lady and another person had visited the shop and their movements were suspicious. The lady was wearing mask. The complainant and his brother were kept busy by the accused by striking conversation with them. It was noticed that the accused removed the articles and disappeared from the shop. FIR was registered and investigation proceeded. During the course of investigation vehicle Maruti Wagon R, bearing registration No.MH-02-AP-1868 was seized.

3. The petitioner preferred an application for return of the vehicle before the Court of J.M.F.C., Pargam, Khandala, Satara. The application was preferred under Section 457 of Cr.P.C. 'Say' was filed by learned APP opposing the application for return of property on the ground that the petitioner is habitual offender and will try to repeat such offence by using vehicle. The vehicle is used in commission of present offence. The co-accused is absconding. The learned Magistrate rejected the said application by order dated 1st April, 2022. The learned Magistrate considered the fact that as per the say of investigating officer several crimes are registered against the accused with various police stations. If the vehicle is released

from the custody of police, the accused may use it in indulging different criminal activities and there is also likelihood of disposal of vehicle.

4. The petitioner preferred revision application before the Sessions Court challenging order dated 1st April, 2022. The learned Additional Sessions Judge, Satara rejected the application vide order dated 10th May, 2022. The learned Sessions Judge has observed that *prima facie* facts and circumstances of this case discloses that the applicant has committed theft of gold ornaments from the jewellery shop of informant and during investigation, the vehicle is seized. The prosecution has pointed out that there are similar type of fourteen crimes against the petitioner.

5. Learned Advocate for the petitioner submitted that the vehicle is detained at police station. The vehicle will be damaged. The petitioner is registered owner of the vehicle. The vehicle is not involved in the present crime. Initially after arrest of petitioner it was not alleged that, said vehicle was used in present case. From 18th September, 2021, the vehicle is lying at the police station. He relied on the decision in the case of *Sunderbhai Ambalal Desai V/s State of Gujrat, (2002) 10 SCC 283* and decision in the Supreme Court in *Writ Petition No. 14 of 2008* in the case of *General*

Insurance Council & Ors. V/s State of Andhra Pradesh and Ors.

6. Learned APP submitted that the offence is of serious nature. The vehicle was used in the crime. The petitioner is involved in similar crimes, fourteen other cases were registered against petitioner for similar offences. There is likelihood that the petitioner would use the vehicle in similar offences.

7. The petitioner is arrested in C.R. No.298 of 2021. The case of the prosecution is that the petitioner had visited the shop of the complainant and committed theft articles from the jewellery shop of complainant. The incident is recorded in C.C.T.V. camera. Fourteen other crimes are registered against the petitioner at different police stations. The petitioner is repeatedly involved in offences of similar nature. The offences are registered with Sawantvadi Police Station, Bhudargad Police Station (Gargoti), Ratnagiri Police Station, Kothrud Police Station, City Police Station, Parali Vaijinath, Rajarampuri Police Station, Kolhapur, A.P.M.C. Washi Police Station, Warje Malwadi Police Station, Pune, Gandhi Chowk Police Station, Latur, Bhigwan Police Station, Pune, Aajra Police Station, Kolhapur, Kodhwa Police Station, Pune, Samarth Police Station, Pune and Nipani Police Station, Karnataka. On perusal of the investigation papers it can be seen that the vehicle

was used in the present crime. The decision relied upon by the learned Advocate for petitioner are of no assistance to the learned petitioner for granting relief. Hence, the petition is devoid of merits.

ORDER

Criminal Writ Petition No.3203 of 2022 is rejected and disposed off.

(PRAKASH D. NAIK, J.)